

Technical Memo

Patrick Bayou Superfund Site

To: Patrick Bayou Joint Defense Group (JDG)
EPA, TCEQ, Federal and State Trustees
From: Bob Piniewski – JDG Project Coordinator
Date: July 28, 2008
RE: Agreements and Action Items
July 16, 2008 Meeting

The purpose of this Technical Memorandum is to document Agreements and Action Items from the July 16, 2008 meeting held in Austin, TX.

Attendees included:

Name	Representing	Phone Number	e-mail
Philip Allen	USEPA	(214) 665-8516	allen.philip@epa.gov
Phil Turner	USEPA	(214) 665-2706	turner.philip@epa.gov
Joe Bell	TCEQ	(512) 239-6753	jbelt@tceq.state.tx.us
Vickie Reat	TCEQ	(512) 239-6873	vreat@tceq.state.tx.us
Richard Seiler	TCEQ	(512) 239-2523	rseiler@tceq.state.tx.us
Linda Broach	TCEQ	(713) 767-3579	lbroach@tceq.state.tx.us
Keith Tischler	GLO	(512) 463-6287	keith.tischler@glo.state.tx.us
Tammy Ash	USFWS	(361) 994-9005	tammy_ash@fsw.gov
Barry Forsythe	USFWS	(214) 665-8467	forsythe.barry@epa.gov
Louis Brzuzy	SHELL	(713) 241-1506	louis.brzuzy@shell.com
Bob Piniewski	Project Navigator	(919) 539-1928	bobp@projectnavigator.com
David Keith	ANCHOR	(228) 818-9626	dkeith@anchorenv.com
Jason Kase	ANCHOR	(228) 818-9629	jkase@anchorenv.com
Patrick Gobb	NEWFIELDS	(972) 956-9100	pgobb@newfields.com

Action Items

1. Tentatively identified compounds (TIC)
 - a. TCEQ
 1. Provide the JDG and consultants a list of TIC for the Site that they are concerned with based upon the results of analyses performed on samples collected in 2003 as part of the split-sampling task performed between USEPA, TCEQ, and the Patrick Bayou TMDL group.
 2. Perform a literature review of the toxicological data for the TIC. Results will be provided to the JDG and consultants.
2. Potential discrepancies in the bulk sediment and bioassay data sets
 - a. JDG/Consultants
 1. Provide TCEQ with a list of samples included in the COPC and their selection basis in the COPC Memo to address a potential discrepancy in the number of samples included in the analyses. TCEQ believes that the analyses are short of the number of samples that should be included.
 - b. TCEQ
 1. Provide the JDG and consultants with 1) bulk sediment chemistry and bioassay results from split samples collected in conjunction with USEPA and the Patrick Bayou TMDL in 2003 and 2) bulk sediment chemistry results of samples collected at the Site by TCEQ subsequent to the 2003 TMDL sampling effort
 2. Provide results of their assessment of the comparison of the 75th percentile sediment chemistry results between toxic and non-toxic bioassay samples using the data set that they believe includes all relevant samples.
3. Threatened & Endangered Species
 - a. JDG/Consultants
 1. Provide USFWS a list of State and Federal threatened, endangered, and rare species that may potentially occur in Harris County for their review and assessment of the potential occurrence at the

Site; primarily to confirm the agreement in principle that the Brown Pelican is the only potentially occurring listed species at the Site that should be assessed quantitatively (using a representative surrogate species) in the selection of COPC.

b. USFWS

1. Confirm agreement in principle to assessing only the Brown Pelican as a listed species for the Site

4. Whole body conversion factor for fillet tissue data in Calcasieu BERA

a. JDG/Consultants

1. Provide TCEQ with a copy of the source document (Bevelheimer, et al 1997) for the proposed conversion factors for their review.

5. Training for trustees on probabilistic risk assessment principles and methods

a. USEPA

1. Look into the possibility of setting up a training workshop prior to submittal of the ERA Work Plan

6. Complete review by agencies of draft response to comments

a. TCEQ

1. Will continue to review draft response to comments and provide a more detailed review and comments. [No date was determined for these additional comments, but TCEQ should consider JDG timeframe of Sept. 1 for its Response To Comments].

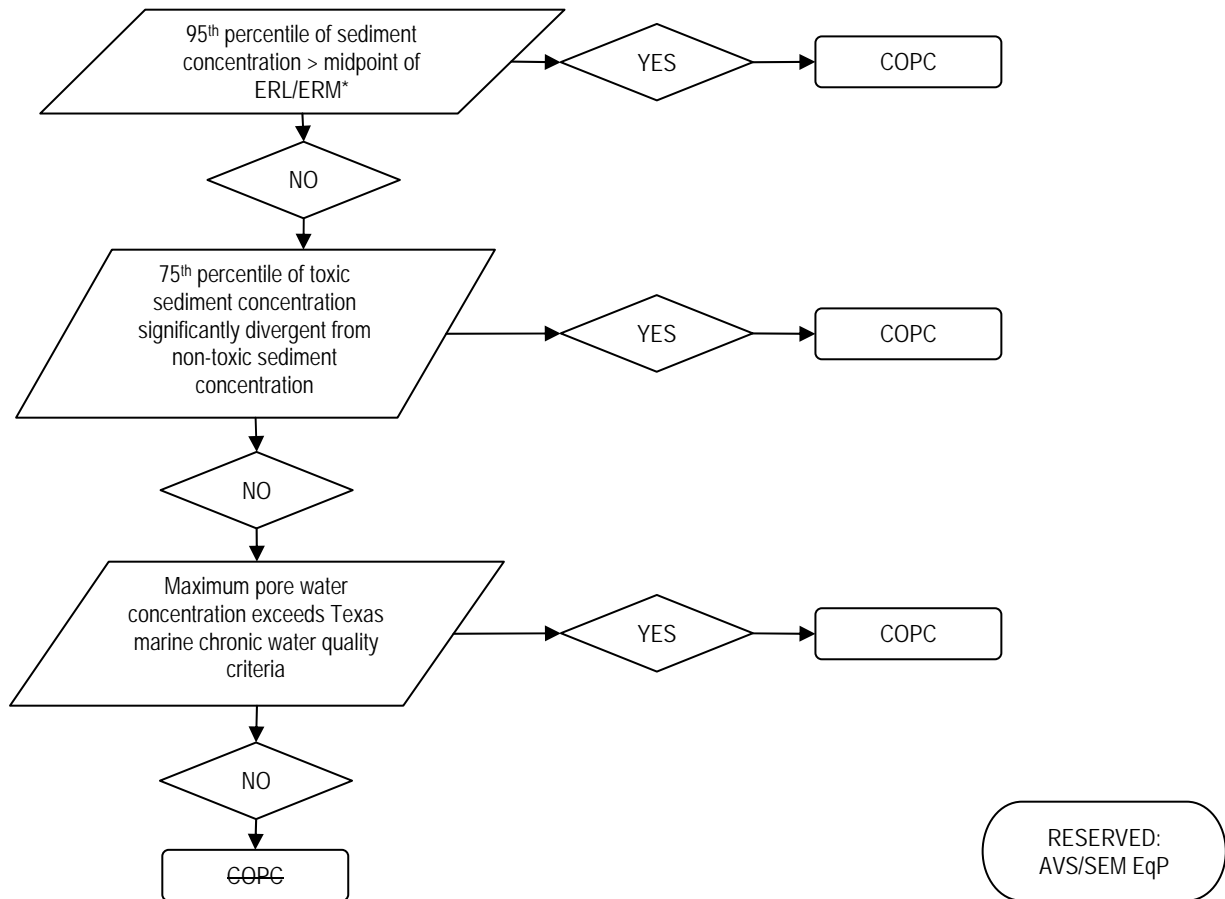
Agreements

Agreement #1

Response to comments and status of final document – Agencies and consultants agreed (pending approval by the JDG) that the JDG would submit a draft final response to comments document. This document would include the agreed and/or proposed responses to all agency comments. Rather than revising and submitting a final version of the memo, a technical memorandum would be provided by the JDG describing and summarizing any updated or additional analyses performed as part of the agreed response to comment or action items above

Agreement #2

Lines of evidence and weighting framework for identification of COPC for sediment toxicity (e.g. benthic invertebrate and fish receptor groups) was reviewed and modified as follows:



* Assumed to also include SQG derived from other sources (i.e. TEL, PEL, EqP) and promulgated as primary TCEQ benchmarks and secondary effects levels

Agreement #3

Wildlife exposure assessment -- Exposure assessment for selection of COPC would include an incidental ingestion component for appropriate receptors (i.e. sandpiper, raccoon, mink, otter). For non-bioaccumulative chemicals, exposure assessment through incidental ingestion would be performed for detected chemicals exceeding the TCEQ primary benchmark.

Agreement #4

Updated COPC list -- An updated COPC list would be provided in the response to comments/tech memorandum based on agreements #2 and #3 as well as the proposed draft response to comments (contingent upon final agency acceptance) and action items (e.g. discrepancies in the bulk sediment and bioassay data sets) agreed to during the meeting.

Agreement #5

Biogenic Zone -- Additional investigation to identify the mixing zone / biologically active zone should be performed as part of the ecological risk assessment.

Agreement #6

COPC status and evaluation in the ERA--Any chemical identified as a COPC would be quantitatively assessed in the ERA. Chemicals identified as 'Uncertain' would be included in ERA Sampling and Analysis Plans (SAP) in future submittals. This data would be used to reassess their continued/discontinued status as COPC in the ERA. A process for evaluating their status as COPC will be proposed by the JDG as part of the ERA Work Plan

Agreement #7

Future deliverables – The agencies expressed their desire to receive deliverables based on specific tasks in order to provide more timely responses. This agreement is pending the JDG's input and approval.

Agreement #8

Sediment transport modeling agency review--The USEPA has brought Earl Hayter (USACE) on board to assist in evaluation of the sediment transport model.

Agreement #9

Schedule

- 1) Action Items and Agreements for agency review: ASAP
- 2) Further comments, if any, from regulatory team on draft response to comments: No later than August 8, 2008
- 3) Revised response to comments, technical memorandum, and COCP list: September 1, 2008
- 4) Draft SAP for ERA:

- a) High resolution vertical coring, refined spatial characterization of surface sediment, and surface water characterization: September 1, 2008
- b) Habitat assessment: September 15, 2008 (tentative)
- c) Tissue sampling: September 15, 2008 (tentative)
- 5) Meetings
 - a) Technical team meeting: September 23 or 24th, 2008 in Austin, TX.

Miscellaneous:

- USEPA (Phil Allen) expressed again their desire to come to an agreement on the COCP list so field investigations can be conducted this fall rather than deferring field work until next calendar year.